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**TO: Assistant Commissioner of Patents  
United States Patent and Trademark Office  
Attn: Examiner Alton N. Pryor  
Fax No. (703) 308-4556  
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**FROM: Brian M. Bolam  
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- 1) Transmittal for Response/Amendment + 1 copy;
- 2) Response (3 pages).;

Number of Pages Including this Page: 6

In the Application of  
Wendy Victoria Jane Young, et al.  
Serial No.: 09/744,838  
Filed: June 28, 2001

Confirmation No. 5667  
Group Art Unit: 1616  
Examiner: Alton N. Pryor

Case CM1871M

IN THE UNITED STATES PATENT & TRADEMARK  
RESPONSE/AMENDMENT

Case Docket No. CM1871M

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Brian M. Bolam

Signature

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

Transmitted herewith is a **RESPONSE** for the patent application:

Inventors:

Wendy Victoria Jane Young, et al.

Serial No.: 09/744,838

Filed: June 28, 2001

Confirmation No. 5667

Group Art Unit: 1616

Examiner: Alton N. Pryor

For: **HAIR CARE PRODUCT PROVIDING SHINE**

1. ☒ No additional fee is known to be required.
2. ☐ The fee has been calculated as shown below:

	(Col. 1)		(Col. 2)	(Col. 3)	OTHER THAN A SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA*	RATE	FEE
TOTAL	* 29	MINUS	** 29	=	x \$18 =	\$
INDEP.	* 1	MINUS	*** 3	=	x \$84 =	\$
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ \$280 =	\$
					TOTAL	\$

\* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

\*\* If the highest number of total claims previously paid for is less than 20, write "20" in this space.

\*\*\* If the highest number of independent claims previously paid for is less than 3, write "3" in this space.  
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment or the number of claims originally filed.

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- a. ☒ Any patent application processing fees under 37 CFR §1.16.
- b. ☒ Any patent application processing fees under 37 CFR §1.17.

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 Brian M. Bolam

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November 26, 2002  
Customer No. 27752

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Brian M. Ballan

Name of Attorney or Agent

27,513

Registration No.

Signature of Attorney or Agent

#12  
A. Harmon  
12/17/02

Case CM1871M

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In the Application of  
Wendy Victoria Jane Young, et al.  
Serial No.: 09/744,838  
Filed: June 28, 2001

Confirmation No. 5667  
Group Art Unit: 1616  
Examiner: Alton N. Pryor

For: HAIR CARE PRODUCT PROVIDING SHINE

**RESPONSE TO NONFINAL REJECTION**

Commissioner of Patents

Washington, DC 20231

Dear Examiner:

In response to the August 27, 2002 Office Action in the above-entitled application, please consider the following remarks and reconsider the application. Claims 1-29 are pending in the present application.

**Remarks**

Claims 1-29 are pending in the present application. No additional claims fee is due.

**Response to the Office Action****The Rejection under 35 U.S.C. 102(b) over Dupuis**

Claims 1-29 have been rejected under 35 U.S.C. 102(b) as being anticipated by Dupuis (EP 684041). Applicants respectfully traverse this rejection. Dupuis does not teach a hair care product comprising a hair shine agent consisting essentially of a mixture of a nonvolatile polysiloxane fluid having a refractive index of at least 1.46, and a nonvolatile spreading agent intermixed with the polysiloxane fluid; ethanol; water.

Dupuis teaches only a cosmetic composition comprising an insoluble conditioning agent, at least one water-soluble alcohol, and at least one polysiloxane-polyoxyalkylene linear block copolymer.

Dupuis does not even consider a hair care composition for the purpose of increasing hair shine, style retention, and refreshment without drying the scalp. Specifically, Dupuis does not teach a hair care product comprising a hair shine agent with a nonvolatile polysiloxane fluid having a refractive index of at least 1.46 for the purpose of increasing hair shine. Also, Dupuis does not indicate that a nonvolatile polysiloxane fluid having a refractive index of at least 1.46 coupled with a nonvolatile spreading agent would increase hair shine, as required by Applicants' claim 1. Thus, the present invention is not anticipated by Dupuis.

Further, Dupuis does not teach a spray product having at least 40% of spray droplets with a particle size of at least 100 microns as required by Applicants' claim 1. Applicants have surprisingly discovered that smaller spray particles do not sufficiently penetrate throughout the entire depth of the hair and consequently suffer from insufficient distribution in order for the composition to provide the desired levels of performance. Applicants have unexpectedly discovered that the hair shine agent of the present invention, in the form of a spray product with larger particle size, enhances shine, improves clean hair feel, increases scalp refreshment, and reduces scalp drying. Thus, the present invention is not anticipated by the Dupuis reference.

The present claims are also not obvious in view of Dupuis. Dupuis does not teach or suggest all of Applicants' claim limitations, as required by MPEP 2143.03. The present invention teaches a hair care product comprising a hair shine agent consisting essentially of a mixture of a nonvolatile polysiloxane fluid having a refractive index of at least 1.46, and a nonvolatile spreading agent intermixed with the polysiloxane fluid; ethanol; water. Thus, the present invention requires that the hair shine agent contain a nonvolatile polysiloxane fluid having a refractive index of at least 1.46. Dupuis teaches a cosmetic composition comprising a nonvolatile silicone but makes no suggestion that the nonvolatile silicone could be used as a hair shine agent at a critical refractive index.

Further, Dupuis does not teach or suggest a spray product having at least 40% of spray droplets with a particle size of at least 100 microns as required by Applicants' claim 1. As discussed above, Applicants have surprisingly discovered that the hair shine agent of the present invention, in the form of a spray product with larger particle size, enhances

shine, improves clean hair feel, increases scalp refreshment, and reduces scalp drying. Dupuis does not teach or suggest a hair care product comprising a nonvolatile polysiloxane fluid having a refractive index of at least 1.46, wherein the spray product form has at least 40% of spray droplets with a particle size of at least 100 microns, as required by Applicants' claim 1. Thus, a *prima facie* case of obviousness does not exist, as Dupuis fails to teach or suggest all of Applicants' claim limitations.

### Conclusion

Applicants have made an earnest effort to distinguish the invention as now claimed from the applied references. WHEREFORE, Applicants respectfully request reconsideration of this application and allowance of Claims 1-29.

Respectfully submitted,  
Wendy Victoria Jane Young, et al.

By 

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November 26, 2002  
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